

May 6, 2003

State Government News Summary



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Senate's DJJ funding could solve court fight

Posted Monday, May 5, 2003 - 7:23 pm

By Tim Smith

STAFF WRITER

COLUMBIA — The budget recommended by the Senate Finance Committee could give the state Department of Juvenile Justice enough money to resolve a 13-year-old federal lawsuit and make the agency's institutions safer for children, DJJ's director said Monday.

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The Senate is scheduled to begin debating the \$5 billion budget this week, the result of which will likely be negotiated by House and Senate lawmakers. The bodies are sharply divided in their approach to taxes, education funding and health care issues.

DJJ is attempting to end federal court oversight 13 years after a group of juveniles sued the state alleging unconstitutional conditions, including overcrowding, inadequate medical care and abuse. The agency agreed to a consent decree in 1995 ordering certain improvements but has not been able to end the monitoring.

Last year, lawmakers began delving into DJJ's management, prompted by reports in *The Greenville News* that the state paid \$1.1 million in the past two years to settle nine claims and lawsuits alleging that children as young as 10 had been sexually assaulted by other juveniles in state detention facilities.

In April of last year, the retiring chief of public safety at the department told *The News* that conditions for juveniles and staff were unsafe and the agency was not doing enough to prevent sexual assaults against children at state facilities.

DJJ keeps more than 1,400 children in its evaluation and detention centers, group homes, wilderness camps and long-term facilities.

House and Senate lawmakers differed this year in their handling of the DJJ budget.

The House cut DJJ's current \$65 million budget by \$4 million for the budget year beginning in July but gave the agency an additional \$6 million for specific needs.

The Senate Finance Committee did not cut DJJ's money and approved more than \$7 million for additional expenditures, including \$1.7 million for almost 60 extra guards to be used during second shift and \$4 million to operate the Coastal Evaluation Center.

"It doesn't get us back to where the agency was a couple years ago," said former Family Court Judge William Byars, who became DJJ's director in January. "But I think this will allow us the funds to meet the requirements of the lawsuit and bring us into compliance constitutionally by treating these kids in an appropriate manner."

If approved by both chambers, the money will place more officers in the dorms during the time Byars said most fighting and abuse take place. It also will provide additional staff to watch the images beamed by recently installed cameras.

And it will fund the Coastal Evaluation Center, which opened in November and holds almost 100 males and females. The facility was funded last year with one-time money.

Sen. Mike Fair, a Greenville Republican who chairs the Senate Corrections and Penology Committee, said the added officers and cameras are desperately needed.

"They literally will have their eyes on things again," Fair said. "And that's been the problem, a lack of supervision."

Sen. Ralph Anderson, a Greenville Democrat who sits on the Corrections Committee, also supports the added funding for DJJ.

"I think we've cut Corrections and DJJ too much in the past and then we expect them to do a good job," he said.

Byars said he must report to U.S. District Judge Joe Anderson after lawmakers pass a budget in early June.

"At that time I will have to respond whether or not the state has taken the actions that will allow me to comply with the federal court order of 1995," he said. "I think it's real important that I can say yes."

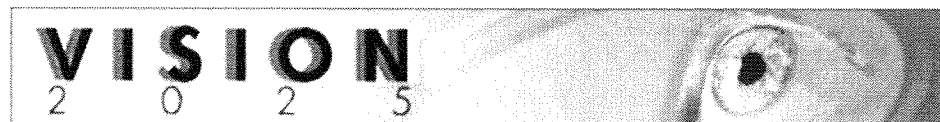
The Senate budget writers also have given DJJ some added revenue tools, including the right to sell timber and land and keep the profits and a proviso that would send half of all child-support payments made through Family Court for youth in DJJ institutions to the agency.

Byars said he also is looking at methods outside the budget to expand the agency's wilderness camps. He told Anderson in January that the agency plans to build four more camps and to transfer some of the non-violent youth currently held in DJJ long-term facilities to the wilderness facilities. Officials say the camps offer a more effective tool for rehabilitating nonviolent youth at less cost than being incarcerated at a DJJ institution.

The agency is considering using a former camp at the John De La Howe School in McCormick, Byars said, which would require building dorms but little else.

He said he believes the budget overall will provide a better environment for the youth sent to his agency.

"By complying with the court order, we make the kids safer," he said. "We need to make the facilities as safe as we can for these kids. Just like we have an obligation to try to protect the public from some of these kids, we have an obligation to try to protect some of these kids from some of these other kids."



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Posted on Tue, May. 06, 2003

The State

Senate tax swap isn't the answer to education needs

WE'RE DELIGHTED THAT Senate leaders aren't taking "no" for an answer, now that they've failed to get support for their first proposal to pull our government-- and especially our public schools -- out of crisis.

But the plan they are warming to is not the answer. In fact, it causes far more problems than it could ever hope to solve -- problems that are all too easy to overlook in the glare of the plan's dramatic promises.

While there are ways to avoid it, it is quite possible -- likely, perhaps -- that any solution to our fiscal crisis will entail massive changes to our tax system and will include some provisions we all dislike. That certainly is the case with the proposal by Sen. David Thomas, which the Senate Republican Caucus tentatively endorsed last week: It would raise the sales tax to 7 percent, eliminate all property taxes on houses and automobiles and give the schools an extra \$200 million.

Sen. Thomas readily acknowledges that his motivation isn't to give the schools extra money. He threw in that sweetener when he saw an opportunity to pass a massive change to our tax system that his colleagues have refused for years to even consider.

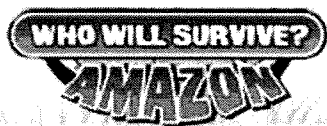
There was good reason they would not consider it before. Among its largest flaws:

- It strips city and county council members of just about any say over how much money they can raise, and therefore spend, to do the job their communities elected them to do. While the plan keeps in place property taxes on manufacturing, commercial and rental property, it caps the tax rates at current levels. There is no justification for that level of micromanaging from the state.
- It locks in our state's biggest education problem: the fact that the quality of education you receive depends primarily upon how wealthy a community you live in. This plan distributes the new sales tax money on exactly the same basis upon which the property tax money is currently distributed. In other words, if your school district now collects 1 percent of all the homeowner and personal property taxes that are paid statewide, it will get 1 percent of the new sales tax money.
- It forces people whose local governments are small or frugal to subsidize local governments that are larger or more wasteful. As with the school equity problem, this flows from the fact that the cities and the counties get the same-sized piece of the sales tax pie as they are getting of the property tax pie.

It's one thing to suggest that education is a statewide responsibility and that those of us who live in Columbia have an obligation to make sure that children who live in Clarendon County have as good an access to it as our children do. It's quite another to suggest that we should make sure the Clarendon County government can provide the same services that the Columbia government provides. Beyond that, once we acknowledge that providing a good education is the responsibility of the entire state, we have to actually do that, and just giving poor districts the same portion of the money they now get isn't going to do the job.

As important as it is to better fund schools, there's a big difference between swallowing a plan with a few objectionable parts and swallowing one composed almost entirely of objectionable parts -- as this one is. Legislators need to go back to the drawing board.

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More work on the budget

Posted Monday, May 5, 2003 - 9:58 pm

State can't afford to dump education

reforms, but it probably cannot afford

a major tax increase either.

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The chickens have come home to roost in South Carolina's state budget, where legislators have spent like crazy during the boom years on new and expanded programs paid for with nonrecurring money. Now the economy is in the cellar, the state budget is bleeding badly, and lawmakers appear to face the harsh choices of gutting critical programs or raising taxes significantly.

What's so disappointing is that this legislative session is in its final five weeks, and most legislators are acting as though they've heard all this bad news for the first time. This budget crisis has been blasting its horn for a couple years now, and legislators have responded by pretending this train wasn't barreling down the tracks or, perhaps, that it would stop in the nick of time.

Well, the problem is here; the state budget is a wreck, and it must be addressed over the next few weeks. The House-passed budget calls for about \$5 billion in spending — which is about \$500 million less than last year. That's after several mid-year budget cuts on top of last year's painful budget session.

Some points should be obvious:

A significant and general tax increase (as opposed to a narrow and targeted one such as on cigarettes) doesn't seem reasonable. South Carolina's budget is bleeding because its residents have less money to spend — much less money. While revenue from the retail sales tax has remained relatively stable, income tax revenue has dropped dramatically. South Carolina residents and corporations are contributing about \$500 million less in revenue over what they sent to the state treasury several years ago. This drop reflects more people out of work, more people moving from higher-paying jobs to a desperation-type employment that will help pay the bills, some companies closing their doors, many other companies struggling in a bad economy and many people reporting much less in dividends and capital gains. A major tax increase could hurt the budget rather than help it.

So far, the Legislature has refused to set budget priorities. Efforts to eliminate new or expanded programs have not materialized. Serious review of existing programs hasn't taken place. Lawmakers seem to prefer spreading the pain without regard to a program's relative merit. This is bad policy in good budget years and disastrous policy in bad years.

The foundation cannot be knocked out from this state's education reforms — which are needed to ensure a brighter tomorrow not just for individuals but also for a state that

needs to replace lower-paying jobs that are moving offshore with higher-paying jobs that will require a more educated work force. Several indicators point to improvement in the academic quality found in this state. Cutting schools back to 1994 funding levels — without a corresponding cut in programs that include waste, duplication or inefficiencies — surely will undermine these improvements in our schools.

Any attempt to create a new tax structure or replace some existing taxes with new ones must be backed by sound research and serious debate before it becomes law. A fear is that any last-minute effort will prove the law of unintended consequences — and create even more problems down the road.

South Carolina ultimately must grow its way out of this budget crisis. It must attract better, and knowledge-based, jobs for its people at the dawn of the 21st century. It must provide a friendly and nurturing environment for small businesses. It needs to attract entrepreneurs eager to fund start-up companies.

All of this is a tall order for legislators to accomplish by early June. South Carolina cannot afford to retreat in its march to improve this state's education system. Other critically needed state agencies — such as public safety, mental health and corrections — cannot sustain deeper cuts to free up more money for our public schools.

Legislators must quickly focus on setting funding priorities and eliminating or cutting some less necessary programs. They must meet this budget crisis head-on.



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Story last updated at 7:06 a.m. Tuesday, May 6, 2003

PACT gives no allowance for language

Test stresses pupils not fluent in English

BY JENNIFER HOLLAND

Associated Press

COLUMBIA--Every child in grades three through eight will take South Carolina's high-stakes Palmetto Achievement Challenge Test this week -- even if a pupil doesn't speak English.

Teachers say the new federal requirement has some pupils in tears as they're asked to answer multiple-choice questions, complete diagrams, write explanations and conclusions and apply mathematical concepts to real-world situations in a language that's not their first.

Teachers used to have the option to exempt pupils for up to three years, but now even children who just enrolled in school last week must sharpen their pencils and work through the exam.

"It's so stressful for the students," said Mary Briggs, executive principal at Hilton Head Elementary School, where 30 percent of the nearly 2,100 pupils are Hispanic.

Some of the students, who started the math portion of the exam Monday, complained of stomach aches, while others could not understand why their teachers would not help them interpret the word problems, Briggs said.

It also has educators on edge, especially in districts with booming Hispanic populations such as Beaufort and Saluda counties, because scores of students enrolled since the 45th day of school will be used to calculate grades for schools and districts.

"Our numbers are going to suffer," said Kathleen Corley, principal

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at Bluffton Elementary School, where nearly 20 percent of the 740 pupils have limited English skills.

"It's no longer a test of their achievement, it's a test on how well they know the language," she said. "We don't know why it's been done this way."

Corley said all she can do is ask the children to do their best. They are tested on how well they meet the state's English-language arts, math, science and social studies standards.

She's prepped them, saying, "We're asking you to do something that seems kind of silly, and we agree with you, it's silly."

Principal Weldon Humphreys, whose Saluda Elementary has 18 percent limited English speakers, said pupils will get test instructions in their native language and will be allowed to use a translation dictionary.

"We want to make it as fair as possible," Humphreys said. "These guys will be given all the time that they feel they will need."

Educators say it will be difficult to explain to their communities why new federal requirements will affect school ratings on the state's report cards next fall.

If Hilton Head Elementary's rating drops, Briggs says she's worried the Hispanic children will get a bad reputation.

Humphreys says he's tried to tell people "we're here to serve all students, and we feel we're doing a good job."

State budget cuts also have pinched schools at a critical time, limiting the tools educators need to make sure they have enough resources and materials to teach the state's growing Hispanic population.

Projections by the University of South Carolina indicate the state's Hispanic population will more than double to 315,784 by 2010.

The challenge is greater than just helping the children learn English; many of them aren't fully literate in Spanish.

With the help of a federal grant, South Carolina officials are leading a consortium of researchers across the country to find a better way to assess students who are not fluent in English.

"We need the voices of parents and schools to support the work," said Sandra Lindsay, state deputy superintendent for curriculum and assessment.

"We're very concerned," she said. "However, leaving them out of testing is not what you want to do."



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**EDITORIALS** The Post and Courier[EMAIL THIS STORY](#)[PRINT THIS STORY](#)*Story last updated at 7:06 a.m. Monday, May 5, 2003*

The Strom Thurmond picture flap

Racial politics took on a surreal aspect Thursday when state Sen. Robert Ford complained on the Senate floor about the state's Legislative Manual, which honors former Sen. Strom Thurmond this year. Sen. Ford objected to the photos of Mr. Thurmond that were coexistent with the South's Jim Crow era and in Sen. Ford's view can be perceived as a link with the senator's segregationist past.

The photos in question are two of Mr. Thurmond as a military officer in World War II, when he fought in Europe; a photograph of an infant Strom; and a photograph of Mr. Thurmond as a cadet at Clemson, when it was still a military school. If there were a legitimate criticism to be made, it would be that Mr. Thurmond was not represented as governor or as a judge, both important chapters in his storied public life.

Sen. Ford said, "I love the new Strom. For the past 20 years, I have had no problem with Strom Thurmond." He said that including the early pictures of Strom Thurmond "is just like honoring Lester Maddox before he changed. You know what happened back then."

But one of the salient points in Mr. Thurmond's career is that he was able to change his position on race. So did many other Southern leaders whose careers bridged the segregated South and civil rights. And so did the state and region, by and large. Honoring Sen. Thurmond implicitly recognizes that change, as well as his long and faithful service to the state.

Sen. Ford later explained to reporter Brian Hicks that his remarks were spurred by members of the black caucus who were offended by the pictures of Mr. Thurmond on the manual. One black senator, Darrell Jackson, told Mr. Hicks that he wouldn't send the manual out to his constituents. He then offered these cryptic remarks: "This is not a direct insult. I don't believe that's what we're saying. Some of us are sensitive to offending others."

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It's hard to believe that using the cover of the Legislative Manual to recognize the public career and contributions of the 100-year-old Sen. Thurmond would provide offense to any South Carolinian. Apparently those who keep their political sensitivities honed to a racial razor's edge should be excepted.



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Posted on Tue, May. 06, 2003

S.C. secret settlement limits take effect

Rules make it harder to keep terms of court agreements from public

By JEFFREY COLLINS
The Associated Press

New rules limiting secret settlements in South Carolina courts have taken effect.

The state Supreme Court drafted the new rules earlier this year, and when the Legislature didn't reject them by the beginning of May, they took effect immediately.

The rules don't ban all secret settlements but create several legal hurdles lawyers must cross before they can file motions or settlements that the public can't see.

Even with new rules, plenty of justice still will be administered behind closed doors because the ban applies only to settlements approved by a judge. Attorneys estimate about 75 percent of civil suits in the state are settled before that point.

The push to reduce secret settlements started last summer in U.S. District Court, where Chief Judge Joe Anderson asked the state's 12 federal judges to ban the practice.

Anderson worried that secrecy prevented quick discovery of faulty products, such as the Firestone tires the government says contributed to 300 deaths in the late 1990s.

Other judges agreed, and the federal ban was put in place last fall.

The state rules aren't as strict as the federal rules.

Settlements in South Carolina still can be sealed as long as lawyers for the side asking for the secrecy can prove keeping the settlement under wraps serves public interest and why an alternative other than secrecy can't be reached.

The state also banned secret settlements involving public bodies.

Lawyers for doctors worry the new rules will invade patients' privacy because they might want settlements sealed in malpractice claims to keep their condition and treatment private.

Other lawyers say secret settlements protect the identity of molested children or victims of sexual harassment and prevent identity theft by keeping Social Security numbers, bank account numbers and other information out of public records.

However, an order signed Monday by the state justices says the new rules balance "the right of public access to court records with the need of the parties to protect truly private or proprietary information from public view and to ensure the rules of the court are fairly applied."

The new rules provide more latitude to Family Court judges, who can seal private financial matters or information sensitive to families in cases such as custody hearings.

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MyrtleBeachOnline.com

Posted on Tue, May. 06, 2003

Ethics probe of Horry GOP settled; \$171 due

By David Klepper
The Sun News

CONWAY - The S.C. Ethics Commission has ended its scrutiny of the Horry County Republican Party, Chairman Duane Oliver said at his party's Porch Rally on Monday.

The party failed to file required records of its campaign spending or a statement of organization. The investigation into that failure, prompted by a splinter group of leading Republicans, was part of an attempt to oust Oliver, an outspoken and sometimes controversial leader.

Since January, the schism has threatened to rip apart the county's largest and most powerful political group.

In exchange for paying \$171 to the state, the cost of the investigation, and admitting he erred in not filing the reports, Oliver will avoid a hearing before the commission and the chance that the party would incur thousands in fees.

Commission officials said the settlement is not unusual. All that remains is for Oliver to formally agree to the settlement and for a commission member to sign it.

"All their records are now up-to-date," said Commission Assistant Director Cathy Hazelwood.

The party submitted to an audit and sent in the correct records, Oliver said. A party member has offered to pay the \$171, Oliver said. He would not release his name.

Oliver's announcement and the success of the Porch Rally, which lured hundreds for two days of political speeches at the Peanut Warehouse, validate his leadership, Oliver said.

"The Horry County Republican Party will pay nothing for this bogus ethics complaint," Oliver said.

After the announcement, Oliver said he hoped he could put the controversy to rest and promised to "forgive, but not forget" the actions of those who called for his ouster.

His opponents, many of whom attended the rally, said Oliver's leadership already has cost the party its integrity and cohesion.

"He has caused so much division among the old guard Republicans," said Myrtle Beach Republican Birgit Darby.

Myrtle Beach City Councilman Randal Wallace said Oliver's failure to file disclosure reports was the "tip of the iceberg."

He said Oliver has kept financial information from the party's executive committee and led through

intimidation, name-calling and deception.

Political speakers at the inaugural rally did not mention the controversy, other than to thank Oliver for his role in starting what party leaders hope will one day rival the Democratic Galivants Ferry Stump.

Oliver estimated attendance at 2,000 people, but others said it was about 500.

Either way, it's a long way from the handful of party loyalists who used to show up at dinner meetings.

"There was a time in Horry County when you didn't know what the word 'Republican' meant," said Phil Tilghman, former mayor of North Myrtle Beach who is running for Horry County Council chairman.

Oliver's supporters and detractors alike the rally was a success.

"I'll give Mr. Oliver credit," Wallace said. "He's good at throwing carnivals."

Contact **DAVID KLEPPER** at dklepper@thesunnews.com or 626-0303.

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Posted on Tue, May. 06, 2003

McBride short on funds

MB mayor lags in race for U.S. Senate

By Zane Wilson
The Sun News

A political analyst said it is partly about the money, and if McBride has not made a better showing by now, he doesn't have a serious chance.

Myrtle Beach Mayor Mark McBride is gearing up his campaign for the Republican nomination for a U.S. Senate seat, despite being behind on fund raising.

McBride announced in January he would seek the post held by Sen. Fritz Hollings, D-Charleston, but so far has not raised the minimum \$5,000 that would require him to register with the Federal Election Commission.

Meanwhile, U.S. Rep. Jim DeMint, R-Greenville, reported to the FEC that he has raised \$380,000 for his Senate campaign so far this year.

Another candidate, former state Attorney General Charlie Condon, on Monday issued a private poll saying he leads DeMint 27 percentage points to 19, and McBride and another possible challenger got 4 points each.

Condon has registered a campaign exploratory committee with the FEC, but he did not file a contribution report.

McBride said he has not asked anyone for campaign contributions yet and is not concerned that DeMint is ahead so far.

"It's not going to be about the money; it's about the issues," McBride said.

He said he expects to have the minimum donations to file his candidacy shortly, and he will have creditable donations to report in July.

McBride, a restaurateur, said he has just now squared his business affairs so he can campaign statewide.

But a political analyst said it is partly about the money, and if McBride has not made a better showing by now, he doesn't have a serious chance.

"You're looking at a race that could cost \$10 million," said Neal Thigpen, a Francis Marion University political science professor and Republican political analyst.

Thigpen said that, so far, the GOP nomination fight looks like it's between Condon and DeMint.

"DeMint is the Bush administration's choice in this thing," Thigpen said. But what Condon has going for him is that "his type of demeanor and personality would be better suited to the race against Hollings."

McBride "might make it interesting" but will be overshadowed by the better-known front-runners, Thigpen said.

McBride said he knows that is what people are saying.

"Everybody's always underestimating me," he said. "Mayor [Bob] Grissom underestimated me," he said, referring to his narrow defeat of the former mayor.

McBride said DeMint's handlers fear he can beat their boss.

"I'm the one that they're concerned about," he said.

DeMint did not respond directly to McBride's comment but said he hopes to get to know more people in Myrtle Beach, including the mayor.

"We share something in common," DeMint said. "We both believe it's time for a change."

Also considering the GOP race is Tom Ravenel, son of state Sen. Arthur Ravenel, but he has not announced or filed with the FEC.

Contact ZANE WILSON at zwilson@thesunnews.com or 520-0397.

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Posted on Tue, May. 06, 2003

FACT

Horry councilman eyes reallocated Senate seat

By David Klepper
The Sun News

Terry Cooper, Horry County Council's acting chairman, is considering a run for the recently redrawn S.C. Senate seat that would include portions of Horry, Georgetown and Charleston counties.

Cooper of Surfside Beach is the first Grand Strand resident to express interest in the reapportioned seat, which still needs the approval of the S.C. House of Representatives and the U.S. Justice Department. If elected, Cooper would become the third S.C. senator from Horry County.

The seat is now held by Sen. Arthur Ravenel, R-Mount Pleasant, who has said he may not run again.

The primary is in June 2004, with a general election that November.

Almost half of the redrawn district would lie in Horry County.

Cooper, who made his announcement at the Horry County Republican Porch Rally, said he will announce his intentions this November.

"I want to see what kind of community support I would have," said Cooper, who has served on Horry County Council for six years.

If elected, Cooper said he would seek a more regional approach to many of the issues that have faced the council.

"Stormwater doesn't recognize county lines, and it doesn't care about city limits," he said. "We need to coordinate."

Cooper assumed the chairmanship of the council after Chad Prosser left to lead the S.C. Department of Parks, Recreation and Tourism.

Cooper faced criticism earlier this year because he worked as a promoter of the Grand Strand Boat Show and Sale and voted to give the show tax money. The S.C. Ethics Commission is investigating.

Whether he runs for the Senate seat, Cooper said he will probably not seek re-election to Horry County Council.

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Posted on Tue, May. 06, 2003

Easley proposes interstate links

Plan to ease access to southeast N.C.

By Dianne Whitacre
Knight Ridder

CHARLOTTE, N.C. - The Carolinas would get two new interstate links and improved access to the port of Wilmington if an ambitious proposal announced Monday by Gov. Mike Easley is built.

Easley wants to rebuild two roads in southeastern North Carolina to interstate standards, as well as build a toll bridge over the Cape Fear River that would help port traffic bypass downtown Wilmington.

He also proposes working with South Carolina to extend I-20 from Florence to Whiteville, N.C., and on to Wilmington.

The plan would "ignite long-term economic growth in southeastern North Carolina, as well as across the state," said Easley, who worked in that area many years as a prosecutor.

The improvements would also mean faster access to N.C. beaches for Piedmont residents. "Right now, it is easier to get to port in Charleston than to Wilmington. By upgrading U.S. 74, you'd have better access from Charlotte," Lanny said.

No timetable has been announced, and no money has been allocated for much of the plan. It's common for major highway projects to take seven years or more to plan and construct.

N.C. Department of Transportation could not estimate what the four-part proposal would cost but hopes the federal government would pay 90 percent and the state the rest.

"I'm very optimistic that we will be able to get U.S. 74 up to interstate standards very soon," said U.S. Rep. Mike McIntyre of Lumberton, whose district includes Wilmington. "That's the first priority and one part that will have the most impact for the rest of the state."

The rest of the multistep road plan, which McIntyre said federal officials support as a way to link Wilmington's port with highways heading to Detroit and Atlanta, "will take a little bit more time to happen," McIntyre said.

The \$440 million dredging of the Wilmington harbor is nearing completion, McIntyre said. U.S. Rep. Mike McIntyre, who represents the Wilmington area, said the proposal would mean freight and passengers could travel faster by interstate, and would mean more jobs in economically depressed counties.

Wilson says the transportation boards from both states will talk about the proposal and other issues May 19 in Fayetteville, N.C.

S.C. DOT officials knew little about Easley's proposal Monday and had no immediate comment except to acknowledge ongoing discussions.



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Tin Products heads sentenced

2 get prison time in one of largest environmental indictments in S.C.

By TIM FLACH
Staff Writer

Two former Tin Products executives will go to prison for their roles in what state officials call one of the worst episodes of industrial pollution in South Carolina.

The sentences in federal court Monday end a criminal investigation into the February 2000 spill that poisoned two Red Bank creeks and ponds fed by them.

The charges were the biggest criminal environmental indictments in South Carolina in a decade, state officials said when the federal charges were filed.

Those sentenced are:

- Former company vice president James Goldman, 52, of Lexington, who will serve 18 months in prison.
- Former plant wastewater supervisor Melanie Purvis, of Lexington, who will serve five months in prison and five months in home detention without electronic monitoring; she also was fined \$7,500.
- Former wastewater operator George Metts, of Pelion, whose responsibility in the spill the judge called "low level," was placed on probation for five years, including six months in home detention with electronic monitoring.

Where and when Goldman and Purvis will serve their sentences has yet to be determined, but the judge recommended facilities in the Carolinas.

Goldman and Purvis received the lightest sentences possible after federal prosecutors said they cooperated in the investigation.

Imprisonment for major incidents of pollution is becoming more common nationally, University of South Carolina law professor Kim Diana Connolly said.

U.S. District Court Judge Cameron Currie said prison sentences are warranted for the Tin Products spill because "the consequences of this were tremendous."

It killed hundreds of fish, closed a Lexington County sewer plant, led the city of Cayce to find a new source of drinking water and resulted in water-use restrictions for 55,000 residents and businesses in central Lexington County during summer 2000.

The spill was a cocktail of tin-based compounds used in vinyl siding, plastic plumbing and plastic jars.

State environmental officials have given the waterways a clean bill of health, but advise against eating

many fish from them. Homeowners remain wary as federal officials keep an eye out for long-term health and environmental dangers.

Gray Macaulay, whose 60-acre pond bore the brunt of the pollution, had a mixed reaction to the sentences.

He said those for Purvis and Metts are OK, but Goldman should be in prison longer.

"He was the ringleader," Macaulay said. "He should be in prison for as long as it takes to make our pond usable again."

His family's pond, now drained, was a longtime source of recreation for community groups.

Cayce Mayor Avery Wilkerson, also chairman of the county sewer commission, is satisfied with the sentences. "It sounds as if justice prevailed," he said.

Officials at the state Department of Health and Environmental Control declined comment. A \$2.9 million state fine against Tin Products is pending, but officials say there is little chance of collecting it. A possible federal fine against the company is pending before Currie.

Robert Jendron, who oversaw the spill investigation for the local U.S. attorney's office, said the sentences are satisfactory.

Taxpayers are paying for the cleanup of the contamination.

Removal of pollution at the closed 45-acre chemical plant is complete at a cost of more than \$1 million. State officials closed the plant in August 2001 after concluding it operated unsafely.

James Griffin, Goldman's lawyer, said the plant relied on a new manufacturing method that proved a failure for reasons other than the spill.

The sewer plant is cleaned up, but idle. Cayce switched to other water supply sources.

Goldman, Purvis and Metts could be back in court soon. The Macaulays and more than 60 homeowners are suing Tin Products, state environmental officials and county sewer officials for damages.



Posted on Tue, May. 06, 2003

Myers given reprimand by high court

Private action relates to assistant's videotaping of talk between defendant, his attorney

By RICK BRUNDRETT
Staff Writer

The state's top court has issued a private reprimand and a letter of caution to longtime Lexington County prosecutor Donnie Myers for ethical violations in two death penalty cases.

Myers, the 11th Circuit solicitor since 1976, is the highest-ranking prosecutor in recent years to be disciplined by the S.C. Supreme Court.

But the minor punishment imposed by the court won't immediately affect Myers' license to practice law or his job as the solicitor for Lexington, Saluda, Edgefield and McCormick counties. Myers had never been disciplined before.

An ethics panel last year recommended that Myers receive a public reprimand - a slightly tougher sanction - in one of the two cases in question.

Myers, who has won more death penalty cases than any other active state prosecutor, called Monday's ruling a "victory" for him.

"It affirms what I've been saying all along," he said. "I didn't engage in any misconduct."

At the same time, Myers criticized the ruling, claiming it likely will cause case backlogs for solicitors statewide. Solicitors now will have to closely monitor all the work of their assistants, from "DUI second (offense) to murder," or face possibly disciplinary charges, he said.

Monday's ruling came almost eight months after the Supreme Court heard the matter and more than two years after an unprecedented hearing by a separate ethics panel. It ends a lengthy investigation by the S.C. Office of Disciplinary Counsel, an arm of the Supreme Court.

Henry Richardson, who heads the office, said Monday he is "glad the case is over" and described Myers as a "dedicated public servant."

Asked about the ruling, Richardson said, "Any comments of a substantive nature, I have made to the hearing panel, in my (legal) brief, and to the court. I don't have anything to add to it."

In a 15-page, unauthored opinion, the Supreme Court unanimously said Myers violated ethical rules by not properly supervising former Deputy Solicitor Fran Humphries, who overheard a private conversation in May 1995 between murder suspect B.J. Quattlebaum and his lawyer.

Conversations between lawyers and their clients generally are considered confidential and are protected by the U.S. Constitution. Lexington County deputies immediately arrested Quattlebaum after the conversation at the sheriff's department, and his lawyers didn't learn of a videotape of the conversation until 27 months later.

The Supreme Court in 2000 reversed Quattlebaum's 1998 death sentence, citing prosecutorial misconduct.

On Friday, Quattlebaum pleaded guilty to murdering William Swartz of Gilbert in exchange for prosecutors' dropping their plans to again seek the death penalty against him. He was sentenced to life in prison.

In Monday's ruling, the Supreme Court said while Myers did not engage in "any direct misconduct," he did not "exercise the appropriate supervisory control" over Humphries.

The court said Myers, who was told by Humphries of the May 1995 conversation about a week after it happened, should have either reported it immediately to Quattlebaum's lawyers, or made sure Humphries did it.

"We hold a solicitor in this state to the highest ethical standards, for his actions determine a criminal's fate," the court said.

The justices noted their ruling was the first time they were applying the concept of a "duty to supervise" to solicitors and public lawyers.

But the justices also said they were imposing a private reprimand in the Quattlebaum matter instead of a more serious public sanction because of a similar ruling in a case involving a civil lawyer.

Humphries, now the deputy solicitor in Horry County, has not been formally charged with any ethical violations. He declined comment Monday.

In Monday's ruling, the Supreme Court also issued a letter of caution to Myers for his handling of a juror matter in the capital murder case of Robert "Bo" Southerland, sentenced to die for the 1989 slaying of Kimberly Quinn of Cayce.

In that case, Myers violated ethical rules by not stopping a police officer on his juror selection team from calling a prospective juror to verify that the juror lied on a questionnaire about a home address, the court said.

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State keeping an eye on telemarketers

The Supreme Court made clear Monday that S.C. authorities can go after telemarketers who mislead contributors about their fund raising, said S.C. Secretary of State Mark Hammond.

His office, which regulates charities, already had been targeting telemarketers who misrepresent their activities.

In the past 10 months, the office collected \$158,000 in fines from telemarketers who misled contributors about their identity, location or use of money.

The Supreme Court ruling preserves South Carolina's right to continue pursuing these cases, Hammond said.

"We're excited about it," he said. "It reinforces what we've been doing all along."

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